

In the United States District Court  
Northern District of Oklahoma

FILED

FEB 16 2011

Phil Lombardi, Clerk  
U.S. DISTRICT COURT

09-CR-043 SPF

United States of America }

Plaintiff }

v. }

Lindsey Kent Springer  
and Oscar Amos Stilley }

Motion For Evidentiary Hearing

Lindsey Kent Springer ("Springer") moves this Court for an order allowing Springer an evidentiary hearing on his Motion For a New Trial filed Simultaneously herewith.<sup>1</sup>

Springer in his memorandum Sets forth 3 significant events occurring after Trial that dramatically change how this Court would have ruled on the Franks and Suppression request filed on June 1, 2009.

First, Mr. Shern testified he did not know what his delegation of authority was as of April 21, 2010 while this purported criminal prosecution by purported institutional referral dated June 3, 2005, continued.

Second, on October 15, 2010, the Tenth Circuit, relying on the "declarations"

1. Springer has also filed for leave to file an overlength brief which is hand written and probably if typed would not exceed 25 pages.

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of Mr. Shern and the other 10 Bivens Defendants, which declared they were each in Springer's home under the authority of the Secretary at Title 26, § 7608(b), when this Court found the demarcation for the Secretary to the U.S. Attorney was 3 months earlier.

The date in Springer's home was September 16, 2005, and the institutional referral this Court found was on June 3, 2005, See Doc. 383, 71, ln 1-5.

Prior to the Tenth Circuit's ruling the District Court had never relied upon the § 7608(b) statements. Springer did not have the referral letter until after Bivens Defendants interlocutory appealed to the Tenth Circuit.

Third, on January 18, 2011, after being in default for not responding to Springer's Motion to Reconsider, Judge Fizzle ordered the Bivens Defendants to address their alleged false statements regarding when the bright line referral was institutionally made for Title 26 prosecution, supporting "prosecutorial immunity" and qualified immunity.

The prosecutors Horn and Nelson, as of June 3, 2005, did not assert the June 3, 2005 letter as their prosecutorial authority under Title 26 or "any other criminal provision of law relating to internal revenue" (§ 7608(b)) in support of their previous prosecutorial immunity claims.

Mr. Shern and the other 10 Bivens Defendants continue to argue they

were authorized by the Secretary of the Treasury under Title 26, § 7608(b) to

"enforce any of the criminal provisions of the Internal Revenue Laws..."

Their actual statement is:

"Last, IRS Special Agents are authorized to execute search warrants. 26 U.S.C. § 7608(b).

This Court used the terms "cease", Doc 383, 61, in 16-19, the term "bright line", Doc 383, 64, in 4-7, "line of demarcation", Doc 383, 61, in 16-19, Doc 383, 78, in 8, and "definitive demonstration", Doc 383, 70, in 20-24, to describe when the authority of the Secretary ends and the U.S. Attorneys begins.

There is no doubt Mr. O'Reilly, Mr. Snoke, and Mr. Shern intentionally deceived this Court as to both Horn and Nelson's authority, as of September 16, 2005 to prosecute tax related offenses, and Mr. Shern and others authority to act on behalf of the Secretary on September 16, 2005 up until April 21, 2010.

Horn and Nelson, as well as Shern continue, as of January 25, 2011, to maintain the Secretary's authority was institutionally referred to Horn and Nelson, while remaining with Shern and 10 others,

Without the June 3, 2005 theory of referral, no other prosecutorial authority for tax related offenses is claimed to

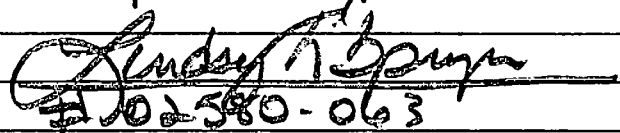
have been made by O'Reilly, Stokke or Shern to seek a Grand Jury indictment, This becomes jurisdictional.

Springer intends to see a limited demand from the Tenth Circuit once his Motion for a new trial is docketed

### Conclusion

Lindsey Kent Springer request this Court set a date for an evidentiary hearing on the issue raised in Springer's Motion For New Trial.

Respectfully Submitted

  
#102580-063

FCI - Big Spring  
1900 Simler Ave.


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### Certificate of Service

I hereby certify that I mailed Springer's Motion for evidentiary hearing to the Court Clerk, 333 W. 4th St, Tulsa, OK 74103, on February 8, 2011.

I further certify that all parties receive service of Springer's Motion through the ECF System

Charles O'Reilly  
Oscar Stalley



m.e.